

General Terms and Conditions for Transport Services with Shippers (Release Version: November 2020)

1. Introductory provisions and applicability

- 1.1. These General Terms and Conditions for Transport Services (these “**Conditions**”) shall apply to all services provided by Fliit Holding GmbH, Oudenarder Str. 16, 13347 Berlin, Germany, registered at the district court of Charlottenburg (Berlin, Germany) under HRB 175519 B (“**fliit**”), for the carriage of goods in domestic and international road transport (the “**Services**”) to a shipper (the “**Shipper**”).
- 1.2. These Conditions shall apply only if the Shipper is an entrepreneur (*Unternehmer*) (within the meaning of Section 14 of the *German Civil Code, BGB*), a legal person constituted under public law (*juristische Person des öffentlichen Rechts*) or a public sector funding company (*öffentlich-rechtliches Sondervermögen*).
- 1.3. If attached to or referred to in a transport order by a Shipper or if instructions for the carriage of goods are otherwise given by a Shipper to and accepted by fliit whether by electronic mail, electronic messaging services or any other means of communication (each of the foregoing shall be construed and hereinafter referred to as “**Shipper Transport Order**”), binding legal contractual relations shall be deemed to be created between fliit and Shipper in the event of conflicts in the order as listed below:
 - 1.3.1. the relevant Shipper Transport Order;
 - 1.3.2. these Conditions which shall form an integral part of such Shipper Transport Order;
 - 1.3.3. (i) the Convention on the Contract for the International Carriage of Goods by Road (“**CMR**”) for international transport, respectively
 - (ii) the German Freight Forwarders’ Standard Terms and Conditions 2017 as amended from time to time (*Allgemeine Deutsche Spediteurbedingungen 2017* or “**ADSp 2017**”) for domestic transport solely within the territory of the Federal Republic of Germany.
- 1.4. fliit shall be entitled to amend or supplement these Conditions. In such event, fliit shall send such amended Conditions by email to the email address provided by the Shipper at least two weeks prior to the planned coming into force and effect of such revised Conditions. The Shipper’s consent to such amended Conditions shall be deemed to have been given unless its validity is objected to in writing by the Shipper within two weeks from its receipt.
- 1.5. The application of the Shipper’s own standard terms and conditions, in particular, any local terms and conditions for freight forwarders unless in accordance with these Conditions is excluded.
- 1.6. Nothing herein shall constitute or be deemed to constitute a partnership in the legal sense between fliit and the Shipper.
- 1.7. Nothing shall constitute or be deemed to constitute an agency agreement between fliit and the Shipper. The Shipper shall have no right or authority to, and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of fliit or otherwise bind fliit in any way.
- 1.8. Unless expressly agreed in writing fliit shall be under no obligation to accept any Shipper Transport Order or number of Shipper Transport Orders.

2. fliit’s obligations

- 2.1. fliit shall ensure that the goods are accepted on time within the agreed time window at the loading point, carried and delivered

on time within the agreed time window to the receiver at the unloading destination and free from loss and damage.

- 2.2. fliit shall notify the Shipper without undue delay by telephone and/or in writing by email to such telephone number and/or email address as designated by the Shipper for such purpose upon becoming aware of any hindrances to taking over, carriage and delivery and of any material delays which become apparent and any loss or damage of the goods and of all other material interference with and threats to transport, including when these are the result of circumstances which fliit could not avoid, and will seek corresponding instructions of the Shipper.
- 2.3. fliit shall be free to subcontract the Services without any consent requirement of the Shipper in which event fliit shall, however, remain liable to the Shipper as if fliit had provided the Services itself. References to fliit in these Conditions shall for the avoidance of doubts in the relevant context always also include the carrier contracted by fliit for the performance of the Services.
- 2.4. fliit warrants that it holds all necessary permits to operate its business in accordance with applicable prevailing laws and that it will subcontract the Services only to carriers holding all required lawful licenses and permits.
- 2.5. fliit shall be responsible for the loading and, unless performed by the Shipper’s consignee, for the unloading of the goods, the securing of the goods on the vehicle, and adequate supervision.
- 2.6. fliit shall record the acceptance and delivery of the goods on the CMR waybill and, as the case may be, by way of such other transport documents specifically specified by the Shipper (together the “**PoD**”). Electronic PoD records shall be submitted by fliit to the Shipper as soon as practically possible as advised the Shipper by electronic mail or via upload to the Shipper’s electronic order management system.
- 2.7. When goods are accepted, and at each subsequent interface, fliit will use reasonable efforts to check the goods for completeness (number of packages) as well as for externally visible damage and broken seals and closures and will record irregularities in writing. fliit will ensure that irregularities that occur are confirmed by the party from which it has accepted the goods and by the party to which it hands the goods over, and to the Shipper (by such mode of communication as advised by the Shipper) in writing and providing the relevant details and documentary evidence. For the purpose of this provisions, an interface is any transfer of the goods from one legal entity to another as well as the delivery at the end of any leg of a route. If fliit accepts a sealed unit (i.e. swap bodies, interchangeable boxes, containers), then its duty to inspect will be limited to a check of the identity and external integrity of the unit and of the seal.
- 2.8. fliit shall comply with all applicable current legislation and regulations with respect to the transport and handling of food products during the provision of the Services. fliit shall further prevent contamination of the goods including cross-contamination caused by incompatible goods transported in the same vehicle.

3. Vehicles

- 3.1. fliit shall only use vehicles that are in a technically roadworthy condition. References to vehicles in these Conditions shall always include the truck, trailers and bodies.
- 3.2. The loading space of the vehicles must be dry, free from soiling, odorless and waterproof. The booked loading space must be empty.

- 3.3. Vehicles used for the transport of goods with cooling chain requirements must be equipped with adequately operational air conditioning/cooling systems and temperature recording devices suitable for the prevention of cooling chain disruptions during the Services and the provision of temperature recordings after unloading, if such monitoring reports are expressly requested by the Shipper.
- 3.4. During the execution of a Shipper Transport Order fliit will provide upon the Shipper's request and within reasonable intervals information on the vehicles position and estimated time of arrival.

4. Invoicing

- 4.1. Following the provision of PoD records by fliit to the Shipper fliit shall electronically issue invoices to the Shipper's designated email address and/or, if otherwise mutually agreed in writing, by upload to the relevant electronic Shipper interface containing the following:
 - 4.1.1. fliit's company details;
 - 4.1.2. fliit's VAT ID;
 - 4.1.3. fliit's account details;
 - 4.1.4. the Shipper's company details;
 - 4.1.5. the Shipper's VAT ID;
 - 4.1.6. correctly listed freight charges and payment terms consistent with the Shipper Transport Order and these Conditions; and
 - 4.1.7. applicable statutory value-added tax.
- 4.2. The Shipper shall transfer the amount indicated by fliit's relevant invoice to fliit's account within the payment term set forth in the Shipper Transport Order. For the avoidance of doubts, payment terms references of the Shipper Transport Order to a specified number of days "after receipt of the invoice" shall always be construed as such specified number of calendar days after the later of the submission of the validly issued invoice and PoD by fliit to the Shipper.

5. Demurrage

- 5.1. For the purpose of demurrage claims waiting time shall always be construed as the time period starting from the time of arrival of fliit at the correct loading respectively unloading point, provided such arrival time corresponds with the time or time window for loading or unloading as set out in the Shipper Transport Order, and further provided such waiting time is not attributable to fliit.
- 5.2. No claims for demurrage shall be refused by the Shipper against fliit if:
 - 5.2.1. the corresponding waiting time is confirmed in writing by as applicable the sender and/or the receiver of the goods, and
 - 5.2.2. such claims including documentary evidence are submitted by fliit to the Shipper in due course.
- 5.3. fliit's waiting time at loading or unloading shall be charged as follows:
 - 5.3.1. Waiting time of up to in aggregate 3 hours per calendar day shall be free of charge for the Shipper;
 - 5.3.2. Thereafter 15 Euro net may be charged by fliit against the Shipper for every completed 30 minutes of waiting time subject to a cap of 210 Euro per 24 hours waiting time.

6. Load carriers exchange

- 6.1. Unless otherwise specifically provided for in a Shipper Transport Order, fliit shall have no obligation to provide or accept load carriers from the Shipper, the Shipper's designated nominee or a consignee under a Shipper Transport Order.

- 6.2. In the event load carrier exchange obligations are governed in a Shipper Transport Order in accordance with these Conditions, the following designations as to definition per load carrier type, dimensions and exchange values shall apply:

Abbreviation	Type	Dimensions (mm) (LxWxH)	Exchange Value Euro
EPAL 1	Euro pallet	1200x800x144	13
EPAL 2	Euro pallet	1200x1000x162	
EPAL 3	Euro pallet	1000x1200x144	
EPAL 6	Euro pallet	600x800x144	
EPAL 7	Euro pallet	600x800x163	
EPAL BOX	EPAL box pallet	800x1200x970	
H1	H1 pallet	1200x800x160	
H2	H2 pallet	600x800x160	
RC	Roll cage	Variable	
TKT	TKT container	800x1200x2150	

- 6.3. Load carrier exchange with respect to EPAL 1 shall always be subject to Class B or higher in accordance with the Euro pallet classification features issued by the European Pallet Association e.V.
- 6.4. Unless otherwise specifically provided for in a Shipper Transport Order, all load carrier exchange shall follow the Cologne load carrier exchange process having the meaning that fliit is obligated to deliver to the Shipper or its relevant nominee at the point of loading or accept from the consignee at the point of unloading, in each case against written delivery respectively receipt confirmation, the equivalent number of load carriers at the relevant quality grading as per relevant Shipper Transport Order, failing which for reasons to the fault by either fliit on the one hand, or the Shipper or the Shipper's nominee or the consignee on the other hand, shall be documented in writing in reasonable detail (in particular with regards to the rejection of contracted load carriers as per Shipper Transport Order by a relevant party) and submitted by fliit to the Shipper's designated email address and/or upload interface.
- 6.5. fliit and the Shipper shall each record such load carrier balances and reconcile such records within five working days after the last calendar day of the preceding month ("**Monthly Load Carrier Balance**")
- 6.6. fliit shall notify the Shipper within 10 working days after reconciliation of any load carrier balance or Monthly Load Carrier Balance of any dispute.
- 6.7. fliit and the Shipper shall agree from time to time maximum threshold values of any Monthly Load Carrier Balance. In the event any actual Monthly Load Carrier Balance owed by the Shipper to fliit exceeds such aforementioned agreed maximum threshold value, then the Shipper shall reduce such balance until the immediately succeeding Monthly Load Carrier Balance to the agreed maximum threshold value. If the Shipper fails to compensate such excess load carrier balance above the agreed maximum threshold owed to fliit until latest 10 days after such succeeding Monthly Load Carrier Balance, then fliit shall be entitled to invoice the entire balance owed by the Shipper to fliit as per relevant load carrier type and corresponding value set out in the table of Section 6.2. or the relevant Shipper Transport Order.

6.8. fliit shall at any time be entitled to reduce the load carrier threshold referenced in Section 6.7 in its sole discretion. Notwithstanding any of the foregoing, all load carrier balances shall be settled between the Shipper and fliit on each last calendar day of each calendar year.

7. Cancellation by fliit

7.1. In the event of a Shipper Transport Order cancellation by fliit, the below listed penalty may be charged by the Shipper against fliit. References to the relevant time period prior to scheduled loading time in Sections 7 and 8 shall always refer to the time starting when such cancellation was notified in accordance with Section 2.2 of these Conditions by as applicable fliit to the Shipper or vice versa until either the agreed fixed loading time or the start of the loading time window, whichever is applicable, in accordance with the Shipper Transport Order.

7.2. No penalty shall be charged by the Shipper in the event a Shipper Transport Order is cancelled by fliit in excess of 48 hours prior to scheduled loading time.

7.3. A penalty of up to 250 Euro may be applied by the Shipper against fliit in the event fliit acts faulty by cancelling a Shipper Transport Order up to 48 hours prior to scheduled loading time. Such penalty is to be reasonably determined by the Shipper and subject to judicial review initiated by fliit.

8. Cancellation by Shipper

8.1. The Shipper shall be entitled to cancel a Shipper Transport Order free of charge and liabilities against fliit, provided such cancellation is received in writing by fliit in excess of 48 hours prior to scheduled loading time.

8.2. fliit may charge the Shipper a cancellation fee of 50% of the freight price as per Shipper Transport Order for cancellations between 24 hours and up to 12 hours prior to scheduled loading time respectively 80% of the freight price as per Shipper Transport Order for cancellations less than 12 hours prior to scheduled loading time.

9. Insurance and claims handling

9.1. fliit undertakes and agrees:

9.1.1. to obtain and keep in full force and effect at all times such policies of insurance as required by applicable prevailing laws to conduct its ordinary course of business; and

9.1.2. to deliver to the Shipper upon the Shippers request copies of its relevant insurance policies.

9.2. fliit undertakes to process all claims for damages asserted by the Shipper with its relevant insurer without delay and to notify the Shipper of its insurer's reference number.

10. Liability and indemnification

10.1. Subject to the provisions of this Section 1010, fliit and the Shipper agree to indemnify each other against all claims, demands and direct losses made, arising from or in connection with the Services.

10.2. fliit's liability to the Shipper in contract, tort, bailment, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered shall not exceed the sum of 50.000 Euro (in the cases of Section 414, 455, 468 and 488 *German Commercial Code, HGB*, such damage shall not exceed the sum of 200.000 Euro) per damage event.

10.3. The aforementioned liability limitation under Section 10.2 does not apply in case of personal injuries, such as injury of life, body and health, if such damage was caused by gross negligence or willful misconduct of fliit or its vicarious agents, or by slightly negligent violation of material contractual obligations

(*Kardinalpflichten*), whereas the latter shall be limited to foreseeable and typical damages.

10.4. Without prejudice to Sections 10.2 and 10.3, fliit shall not be liable to the Shipper for any loss, claim, costs, damage, indemnity or expenses of any indirect or consequential nature suffered by the Shipper including, but not limited to, any indirect or direct economic loss or loss of business, goodwill, market share or profits howsoever arising, including due to fliit's negligence.

11. Other provisions

11.1. The Shipper shall not under any circumstances actively solicit or accept solicitation by a carrier of fliit or by any nominee of any fliit carrier or through any nominee of the Shipper with a view or for the purpose of contracting directly or indirectly through a nominee with such fliit carrier. This Shipper undertaking shall remain in full force and effect for 3 years after the conclusion of a Shipper Transport Order between fliit and the Shipper. Any direct or indirect contracting through a nominee (in each case without fliit) by the Shipper with a fliit carrier after prior conclusion of a Shipper Transport Order which fulfillment was performed by such fliit carrier shall be deemed to be a willful, culpable violation of the foregoing undertaking by the Carrier to fliit and shall give rise to a penalty of up to 500 Euro for each individual occurrence by fliit against the Shipper. Such penalty shall be reasonably determined by fliit and subject to judicial review if initiated by the Shipper.

11.2. The failure or delay by fliit in exercising any right, power or remedy provided by law or by these Conditions or under a Shipper Transport Order shall not, in any circumstances, impair such right, power or remedy nor operate as a waiver of it. No waiver of any right, power or remedy by fliit shall take effect unless it is in writing.

11.3. The Shipper shall have a right to offset against claims (*Aufrechnung*) only if its counterclaim has been established by a final and binding decision or is undisputed.

11.4. Unless expressly agreed otherwise, the legal relationship between fliit and the Shipper under these Conditions shall be governed by and construed in accordance with German law. For the avoidance of doubts, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

11.5. The sole court of jurisdiction for all disputes arising out of or in connection with these Conditions shall be Berlin (Germany), insofar legally permissible.

11.6. If any provision of these Conditions or part thereof is invalid or becomes invalid at a later time, the validity of the remaining provisions shall remain unaffected. The relevant provision shall be replaced by a provision that as closely as possible reflects the economic purpose of the invalid provision. The foregoing shall apply analogously, if any provision has inadvertently been omitted.

Fliit Holding GmbH, November 2020